

**APPROVED MINUTES OF THE MEETING OF  
HERITAGE WESTERN CAPE,  
APPEALS COMMITTEE**  
**Held on Wednesday, 10 August 2022 via Microsoft Teams,  
scheduled for 08:30**



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**Opening and Welcome**

The Chairperson, Ms Katherine Dumbrell officially opened the meeting at 08:30 and welcomed everyone present.

**Attendance**

**Committee Members:**

Ms Katherine Dumbrell (KD)  
Dr Andre van Graan (AvG)  
Mr Stuart Hermansen (SH)  
Dr Nicolas Baumann (NB)  
Ms Emmylou Bailey (EB)

**Members of Staff:**

Ms Nosiphiwo Tafeni (NT)  
Ms Nuraan Vallie (NV)  
Ms Waseefa Dhansay (WD)  
Ms Stephanie-Ann Barnardt (SB)  
Ms Khanyisile Bonile (KB)  
Ms Corne Nortje (CN)  
Ms Muneerah Solomons (MS)  
MS Zikhona Sigonya (ZS)

**Visitors:**

**Item 9.1**

**Item 10.1**

Ms Claire Abrahamse  
Mr Justin Betts  
Mr Andrew Savage

Mr Fred Durrow  
Ms Ute Kuhlmann

**Item 10.2**

Mr Rayno Daschner  
Ms Tamar Shemtov (observer)

Mr Pieter Niemand

**Item 10.3**

Mr George Thom  
Mr Johan Du Plessis

Mr Barry Phillips

**Item 10.4**

Mr Prinsloo Botes

**Item 10.5**

Dr Rainier Bence

**Apologies**

Dr Antonia Malan  
Ms Penelope Meyer

**3. Absent**

None

#### **4. Approval of Agenda**

##### **4.1 Dated 10<sup>th</sup> August 2022.**

The Committee resolved to approve the Appeals Agenda dated 10<sup>th</sup> August 2022.

#### **5. Approval of Minutes of Previous Meeting**

##### **5.1 Appeals Minutes dated 13<sup>th</sup> July 2022.**

The Committee resolved to approve the minutes dated 13<sup>th</sup> July 2022.

#### **6. Disclosure and Conflicts of Interest**

KD 10.4

SH 11.1

#### **7. Confidential Matters**

None

#### **Administrative Matters**

##### **8.1 Outcome of the Tribunal Committees and Recent Court Decisions**

To be reported back on at the meeting of 14 September 2022

##### **8.2 Report back from HWC Council**

KD will prepare a report for HWC Council taking place on 26 August 2022.

##### **8.3 Site Visits Conducted**

8.3.1 Item 10.1: Erven 10712-Re, 10713, 10715 And 14932-Re, Corner Albert Road, 1 Railway Street and Strand Street Woodstock

8.3.2 Item 10. 2: Erf 28173, 10 Dixon, Observatory

8.3.3 Item 10.4: S38(4) - Erven 842, 843, 2780 and 4563, 93 Voortrek Street, Swellendam

##### **8.4 Potential Site Visits**

Item 11.1 S.34 proposed additions, alterations and partial demolition on Erf 3480, 35 Bosman Street, Stellenbosch

##### **8.5 Discussion of the Agenda**

It was decided to hear item 10.4 Erven 842, 843, 2780 and 4563, 93 Voortrek St Swellendam directly after the meeting opened to the public, in order to facilitate Ms Bailey's joining of the meeting as the HWC Council alternate to this Committee.

###### **8.5.1**

**Erven 2455 & 2456, C/O Joubert Street & Merriman Avenue, Stellenbosch.  
HM/ CAPE WINELANDS/STELLENBOSCH/ERVEN 2455 & 2456  
Case No: 18080605HB0807E**

The revised drawings and images were tabled.

Appeal referred to HWC's Appeals committee via the MEC Tribunal

Discussion was procedural in nature and is thus recorded here.

#### **DISCUSSION**

Amongst other things, the following was discussed by the Committee:

- Images provided are sufficient – however no internal images included.
- Further requirements (dated July 2022) from this Committee included that a set of measured drawings that includes dimensioned plans, sections and elevations for both 38 and 40 Merriman Avenue be provided. The current submission does not include clear height dimensions. Note that all dimensions, including heights, are required. This is in order to ensure that the height of the proposed development is possible within the envelope of the existing buildings.
- Lack of dimensions prevents the committee from reviewing the accuracy of the proposals

#### **COMMENT**

The committee have reviewed the Tribunal directive and despite numerous requests for specific information, the committee is still unable to reasonably apply their mind to the matter due to the material not being supplied in full. The matter is to be addressed to the MEC Tribunal for further action.

**WD**

### **9 Matters Arising**

#### **9.1 Erven 2455 & 2456, C/O Joubert Street & Merriman Avenue, Stellenbosch. HM/ CAPE WINELANDS/STELLENBOSCH/ERVEN 2455 & 2456 Case No: 18080605HB0807E**

See item 8.5.1 where procedural matters were discussed.

### **10. New Matters**

#### **10.1 S38(4) Mixed use Development ERVEN 10712-RE, 10713, 10715 AND 14932-RE, CORNER ALBERT ROAD, 1 RAILWAY STREET AND HM/CAPE TOWN METROPOLITAN/ WOODSTOCK/ ERVEN 10712-RE, 10713, 10715 AND 14932-RE Case No: 20082107KB0824**

The appeal pack was tabled.

The appeal is against an IACom decision.

Ms Khanyisile Bonile introduced the case.

Dr Andre van Graan presented the site inspection report and read it into the record

Claire Abrahamse (heritage consultant), Fred Durrow (town planner), Justin Betts (town planner) Ute Khulmann (Woodstock Residents Association), Andrew Savage (Woodstock Aesthetics Advisory Committee) were present and took part in the discussion.

**APPELLANTS** presented, amongst others, the following arguments:

- WRA and WAAC support the notion of development but feel that this development needs to be sensitive to the context along Albert Road and its heritage resources
- It is their opinion that the HIA was handled too narrowly and should have included more social impact analysis
- Community input was disregarded
- The HIA does not appear predicated upon careful site inspection
- The bulk and height were not considered as part of the wider context of the area
- The building is out of scale – height remains a factor and must take account of surroundings. Reference was made to a recent Tribunal ruling on a site in the area of interest of WRA and WAAC.
- There is currently a 38m high building in Woodstock.
- The setbacks and informants proposed do not suit the heritage context of Woodstock.

**RESPONDENT** presented, amongst others, the following arguments:

- The building is not a heritage resource
- The context is acknowledged to be the heritage resource – this was addressed through reiterations with IACom
- Regarding perceptions of procedural unfairness – I&AP's were provided with an opportunity to comment and be present in all committee meetings
- The application is seen in a broader context and must be responsive to town planning issues and not NHRA alone.
- Two HPOZs overlap in this case: Albert Road is its own HPOZ, and overlaps and intersects the property, while the Southern side of Albert Road is within its own HPOZ. The building is thus only partially within an HPOZ.

## **DISCUSSION**

Amongst other things, the following was discussed by the Committee:

- Mixed used development on a site graded NCW by the City. Its street edge falls within the Albert Road HPOZ.
- CoCT and WRA objected to the application
- The current building does not contribute to the streetscape, while the inclusion of balconies and a covered arcade over the pedestrian pavement in the new development offer opportunities to provide a less hostile pedestrian interface and mirror the historical covered pavement that characterises the south side of Albert road.
- The covered pavement and street-facing shops of the proposal can be considered socially inclusive spaces. Other socially inclusive measures, such as affordable housing units within the scheme and private agreements between the developer and community with regards to jobs and other issues of relevance, are town planning matters beyond the purview of this Committee. However, the Committee would support such measures as they begin to address the intangible issues of social composition of the area over time.
- The area to the north of Albert Road has substantially changed in character over time, becoming a primarily industrial area with some fragments of residential, historic, fabric remaining.
- Any redevelopment may improve the context by activating the streetscape
- The streetscape is an important consideration in this case
- Socio-economic issues are being raised by WRA and WAAC.
- The findings of the HIA area are supported in terms of the bulk and scale.

- From a heritage perspective, there is no quantification of what height has a negative impact on heritage resources. That is, when is a building “too tall”? In this case, positives outweigh the negatives in terms of bulk. In addition, it appears unlikely that the views from within the HPOZ, particularly of those buildings sufficiently upslope from the site which currently have glimpsed views to the sea in the distance across roof tops, will not be obscured.
- The stepping back of the building and bulk is toward the northern industrial / railway side of the site and therefore minimises impact on the existing Albert Road streetscape (the resources protected by the HPOZ).
- The committee notes issues of procedure as being one of the grounds for appeal, however it notes that any perceived inadequate opportunities to make representations or engage in the process have been remedied by the appellants being afforded opportunities to participate previously at the IACom meetings and currently at the Appeals Committee meeting where this matter has been tabled.

### **DECISION**

The appeal is dismissed and the decision of IACom is upheld.

**KB**

### **10.2 Proposed Alteration and additions on Erf 28173, 10 Dixton Road, Observatory. Cape Town. S34.**

**HM/CAPE TOWN METROPOLITAN/OBSERVATORY/ERF 28173  
Case No: 21120209KB0322E-(S.34)**

The appeal pack was tabled.

The appeal is against a BELCom decision.

Ms Khanyisile Bonile introduced the case. Dr Andre van Graan presented the site inspection report and read it into the record.

Mr Rayno Daschner (representing the owner and the church) and Mr Pieter Niemand (neighbor), were present and took part in the discussion. Ms Tamar Shemtov (CoCT) attended as an observer.

**APPELLANTS** presented, amongst others, the following arguments:

- Mr Niemand - Issues regarding parking, noise and the proposed non-residential proposed use, given the residential nature of the area and its proximity to Molenvliet, a PHS.

**RESPONDENT** presented, amongst others, the following arguments:

- The Heritage Statement and public participation document prepared by their heritage consultant was to be the core document, and Mr Daschner had nothing further to add.

### **DISCUSSION**

Amongst other things, the following was discussed by the Committee:

- The precinct is graded IIIA and is within a HPOZ. The dovecote between the North and South Barns is a PHS.
- The glazed entrance to the new building is not highly visible from Dixton Road and the proposed screen of trees along the off-ramp edge of the site will further

mitigate impact of the building, although the form and proportions of its pitched roof are sympathetic towards the historic homestead in front of it and also visible gable-end on from the off ramp.

- The height difference between the two buildings is not sufficient to make the new building visible behind the old homestead from a pedestrian viewpoint in Dixon Street.
- The traffic congestion and noise concerns are not heritage related in this case.
- Concerns regarding perception of bias, as raised by the appellant, were clarified and noted for the public once they returned to the meeting.

#### **DECISION**

The appeal is dismissed and the decision of BELCom is upheld.

**KB**

#### **10.3 S38(4)- NID: Proposed new Development: Farm La Motte 1038/8, R45, Franschhoek. HM/ CAPE WINELANDS/ STELLENBOSCH/ FRANSCHHOEK/ FARM 1038/8 Case No: 21030908SB0309E**

The appeal pack was tabled.

The appeal is against IACom decision.

Ms Stephanie-Ann Barnardt introduced the case.

George Thom (appellant – Moth Consulting), Barry Phillips (appellant - Franschhoek Heritage Residents and Ratepayers Association), Johan Du Plessis (Respondent's attorney – Land Law Specialist) were present and took part in the discussion.

**APPELLANTS** presented, amongst others, the following arguments:

- The rezoning being requested is questioned as being unlawful
- The proposal is for a 24-hour, 7 days per week, operating bottling plant – not the conventional wine farming function within this farming character area
- Road, traffic impact of delivery and distribution trucks and noise issues were raised
- The Appellants felt that IACom did not address the issues of sense of place, which is an integral part of the character of the area and the impact of the change of use of the facility on sense of place.

**RESPONDENT** presented, amongst others, the following arguments:

- Motivated for the location as being a requirement for the facility
- The VIA conducted clarified any parking issues – adequate screening will be provided

#### **DISCUSSION**

Amongst other things, the following was discussed by the Committee:

- Making an argument relying on sense of place as a key concept requires that the term is unpacked and its relevance to this case established from a heritage perspective. The Committee is of the opinion that this was not done by either party.
- The context is not limited to the access road – there is the broader valley to be considered as the cultural landscape within which the proposal is situated.
- Noise, road and traffic concerns are not heritage concerns and should be addressed within the town planning process

- The Committee was of the opinion that insufficient heritage grounds were presented for the Committee to uphold the appeal.

#### **DECISION**

The appeal is dismissed and the decision of IACom is upheld.

**SB**

#### **10.4 S38(4) NID: Erven 842, 843, 2780 and 4563, 93 Voortrek Street, Swellendam HM / OVERBERG / SWELLENDAM / ERVEN 842, 843, 2780 AND 4563 Case No: 22031709CN0317E**

KD recused herself and left the meeting. AvG was elected to chair the matter. EB joined for the item as a member of the Council

The appeal pack was tabled.

The appeal is against HOMS decision.

Ms Corne Nortje introduced the case. Dr Andre van Graan presented the site inspection report and read it into the record.

Mr Prinsloo Botes, the developer, were present and took part in the discussion.

**APPELLANTS** presented, amongst others, the following arguments:

- 3600sqm development
- No excavation took place – the excavation on site was previously present
- Do not believe that an HIA is required

#### **DISCUSSION**

Amongst other things, the following was discussed by the Committee:

- Ungraded property
- Inside the HPOZ within Swellendam
- Proposal includes a retail development on four of the properties
- HOMS required an HIA PIA, VIA and a townscape and streetscape assessment
- There was a notable lack of adequate heritage information provided in the NID to HWC, and HOMS erred on the side of caution – which contributed towards the assessment and decision making
- The committee undertook a site inspection on 28 July 2022 –
- No work has taken place on the site other than the demolition of the non-conservation worthy hotel and earthmoving prior to change of ownership.
- The immediate context is characterized by commercial buildings and set back from the street interface – there is no cultural streetscape in this particular precinct.
- The proposed development therefore does not have a negative impact on the cultural landscape.
- Archaeological concerns were noted, however given that prior excavations have taken place, HOMS assessed the archaeological concerns but deemed there to be little to no impact anticipated.

## **DECISION**

The appeal is upheld and no HIA is required.

**CN**

### **10.5 S38(2) NID: ERF 19506, DUPLEX 7, UNIT 213, PAARDEVLEI LIVESTYLE ESTATE, SOMERSET WEST HM/ CAPE TOWN METROPOLITAN/ SOMERSET WEST/ ERF 19506 Case No: 22031507MS0411E**

The appeal pack was tabled.

The appeal is against IACom decision.

Ms Muneerah Solomon introduced the case.

Dr Rainier Bence (appellant), were present and took part in the discussion.

**APPELLANTS** presented, amongst others, the following arguments:

- The proposal is for a braai area and the enclosure of an existing veranda. The footprint of the building will not be expanded.

## **DISCUSSION**

Amongst other things, the following was discussed by the Committee:

- IACom required an HIA based on the NID
- The estate is situated behind the Crescent houses (PHS) and the proposal, to the rear of the new house, backs onto the Crescent houses
- From drawings, it appears that the boundary between the rear of the Crescent houses and the new houses is heavily treed, which would screen the new houses from view from the Crescent.
- An HIA was compiled for this new development c2010. While it is noted that there is a new managing body for the Estate, all pertinent heritage decisions and particularly design and process conditions should be shared with homeowners wanting to undertake work.
- The committee requires clarity on the status of the approved HIA for this extension to the housing estate and whether any amendments have been made to it, and approved by HWC.

## **FURTHER REQUIREMENTS**

- 1) The applicant is to engage with the estate managing agents to obtain the following:
  - a) The full record of the HIA and amendments to the HIA since the first approval of the estate
  - b) The committee requires sight of the most recent HIA or amendment to the original HIA approved by HWC
- 2) The applicant is to provide a document confirming that the proposal conforms to the conditions of the approved HIA and any subsequent amendments
- 3) The committee resolved to undertake a site inspection once the information has been received

**MS**

## **11. Other Matters**

- 11.1 S.34 PROPOSED ADDITIONS, ALTERATIONS AND PARTIAL DEMOLITION ON ERF 3480, 35 BOSMAN STREET, STELLENBOSCH  
HM/ CAPE WINELANDS/STELLENBOSCH/ERF 3480  
Case No: 22051904MS0530E**

**HELD OVER**

The committee resolved to undertake a site inspection on 5 September 2022 at 10:00 (KD, AvG, NB) and EB to attend the meeting of 14 September 2022 for the item.

**MS**

- 13. Proposed next date of the meeting: 14 September 2022**

**14. Adoption of decisions and resolutions**

The Committee resolved to adopt the decisions and resolutions dated 10<sup>th</sup> August 2022.

- 15. Closure:** The meeting was adjourned at 13:20

**MINUTES APPROVED AND SIGNED BY:**

**CHAIRPERSON** \_\_\_\_\_ **DATE** \_\_\_\_\_

**SECRETARY** \_\_\_\_\_ **DATE** \_\_\_\_\_

Committee Site Inspection Report for: Proposed Development corner Albert Road and 1 Railway Street, Woodstock

Submitted by Dr. André van Graan on 05 August 2022

**Street Address:** 1 Railway Street Woodstock

**Registered Owner:**

**Grading:** Grade 3B

**Nature of Application:** Section 38 application.

**Date of Site Visit:** 3<sup>rd</sup> August 2022

**HWC Representatives:**

Ms. K. Dumbrell

Dr. N. Baumann

Dr. A. van Graan

**Reasons for Site Inspection:** Section 38 Proposed residential development

**Findings of Site Inspection:**

On the site inspection the following items were noted:

- The site is currently occupied by a large industrial building that makes no contact with the street at all.
- The site lies to the north of Albert Road in an area characterised by industrial buildings
- The ins are arcaded buildings on the opposite side of Albert Road as well as an Art Deco building.
- There is a modern multi-storey development on the south side of Albert Road opposite Railway Street.

**Recommended Action:**

To be considered at Appeals meeting on the 10<sup>th</sup> August 2022

**Which committee should this report be submitted to:** HWC Appeals Committee



Aerial view of the site



The site in 1945, above, and 1935 below





Google street views



**Google Street view of Railway Street looking south towards Albert Road**

## **Committee Site Inspection Report for: Proposed Alterations and Additions Erf 28173, 10 Dixton Observatory**

Submitted by Dr. André van Graan on 05 August 2022

**Street Address:** 10 Dixton Road, Observatory

**Registered Owner:**

**Grading:** Grade 3B

**Nature of Application:** Section 34 application.

**Date of Site Visit:** 3<sup>rd</sup> August 2022

**HWC Representatives:**

Ms. K. Dumbrell

Dr. N. Baumann

Dr. A. van Graan

**Reasons for Site Inspection:** Proposed alterations and additions

**Findings of Site Inspection:**

On the site inspection the following items were noted:

- The site is the remainder of the historic Coornhoop werf.
- The site is treed with the buildings lying along the western side of the property and the remainder of the Coornhoop farmhouse on the south.
- The proclaimed Provincial Heritage Site is the dovecote in the centre. The buildings on either side have been repaired and partly reconstructed. The rest of the site is graded IIIA
- The Intended site for the church is on the south-western corner of the property behind the Coornhoop house, where there is currently a single storey structure that is not historic.
- The proposed church will make touch the corner of the house and is proposed as a glass box, while the church building will have a pitched roof section with a curved section adjacent to the house.
- There are trees in the corner of the proposed development. The oak tree is to be retained and the others removed. The proposal is that new trees will be planted along the southern boundary, mitigating the view of the side of the church.

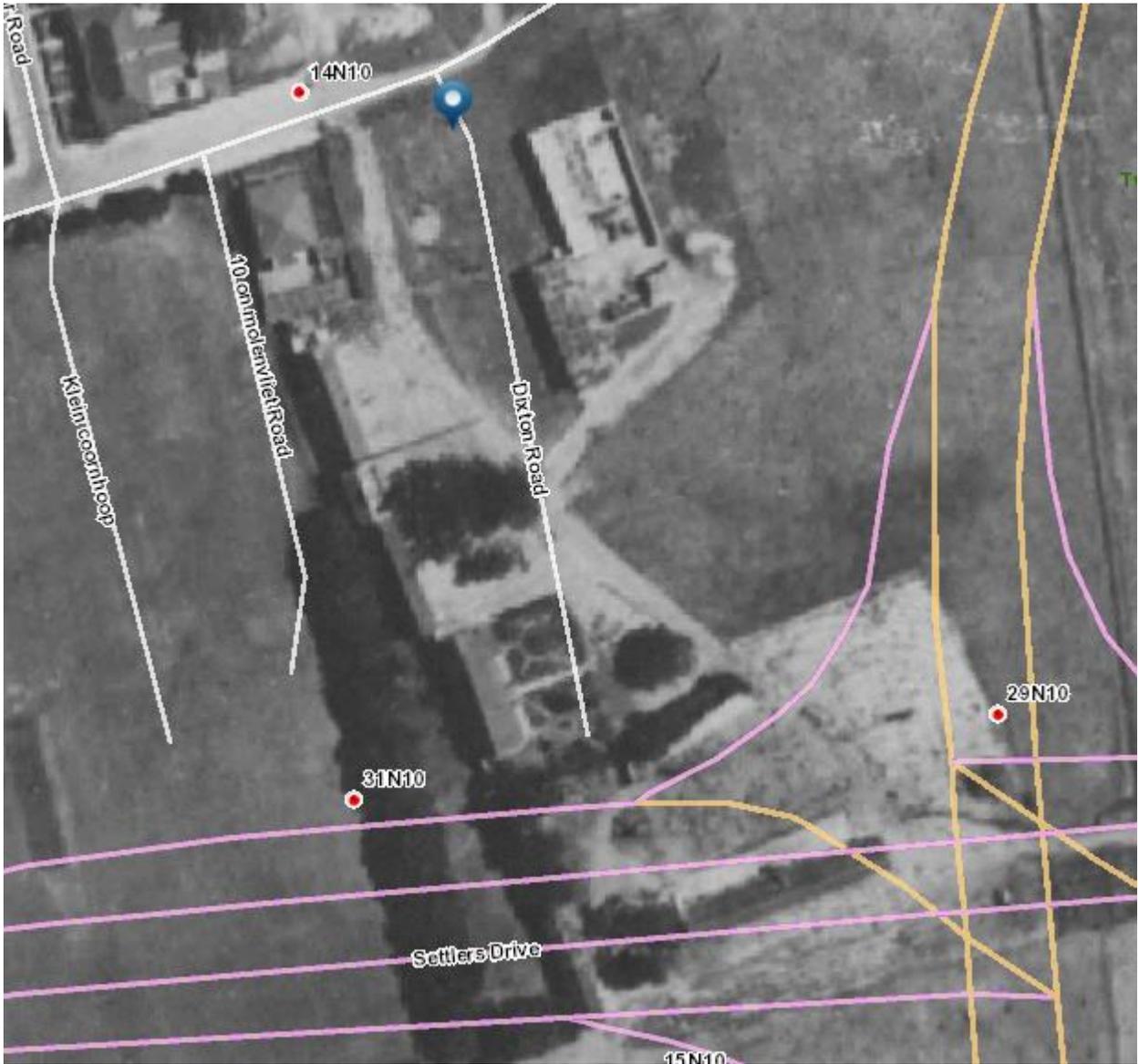
**Recommended Action:**

To be considered at Appeals meeting on the 10<sup>th</sup> August 2022

**Which committee should this report be submitted to:** HWC Appeals Committee



Aerial view of the site



The site in 1938 prior to the demolition of the barn